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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,783	07/24/2003	Michael Lebner	0156-2007US01	1197
7590	05/03/2006		EXAMINER	
Kevin M. Farrell Pierce Atwood Suite 350 One New Hampshire Avenue Portsmouth, NH 03801			WEBB, SARAH K	
			ART UNIT	PAPER NUMBER
			3731	
DATE MAILED: 05/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/626,783

Applicant(s)

LEBNER, MICHAEL

Examiner

Sarah K. Webb

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/31/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3,5,9-11,16,19-21,23,27-29, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,329,564 to Lebner.

Lebner discloses a wound-closing device that includes two components (5,25) with adhesive backing (column 5, lines 51-52) and means for attaching the components to one another. The components have multiple connectors (15, 35) extending between them. There are removable pulling members (40,45) and extensions for positioning the components (column 6, lines 1-8). The interlock of the connecting strips can function as an alignment indicator. A protective film is provided over the adhesive surfaces (column 6, lines 10-15).

2. Claims 1-3,10,11,17,19-21,28,29, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,263,970 to Preller.

Preller discloses a two-component (12,14) device (10) with adhesive backing (18) and means for attaching the components to one another. The components have multiple connectors (24,26) extending between them. The pulling members are reinforced with a pull bar (28), which connects all the pulling elements. A protective film (20) is provided over the adhesive surfaces.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4,6-8,12-15,18,22,24-26,30-33,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebner in view of US Patent No. 5,979,450 to Baker.

Lebner fails to include a wound edge bar or a code on the components to distinguish the different parts from one another. Baker discloses another medical device with adhesive backing that attaches to skin. Baker teaches that a thin film with adhesive should include a reinforced bar so that wrinkles do not form in the film when applied to skin (column 8, lines 45-49). Wrinkles can allow bacteria to enter the wound, so the reinforced bar helps to keep the wound sterile. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a reinforced bar on the Lebner film, as Baker teaches that this prevents wrinkles and infection of the wound.

Lebner also fails to include a code in the form of indicia or distinguishing colors on the device, but Baker teaches that colors, patterns, or other distinguishing characteristics can be used to differentiate between parts of the device (column 10, lines 5-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a code on the Lebner device, as taught by Baker, in order to provide a more user-friendly system that minimizes confusion of parts.

Art Unit: 3731

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW  
4/19/06

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Julian W. Woo

JULIAN W. WOO  
PRIMARY EXAMINER

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